



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 5968-00  
2 February 2001

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel for the Board for Correction of Navy Records, sitting in executive session, considered your application on 31 January 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 21 December 1990 for four years at age 20. At that time, you extended your enlistment for an additional 24 months in exchange for training in the advanced electronics field. The record reflects that you were advanced to MT3 (E-4) on 1 November 1991 and changed your rate to TM3 on 15 June 1992. You were assigned to the USS PARGO in September 1992, where you served for more than two years and received average to above average performance ratings. You were subsequently reassigned to the USS PENNSYLVANIA.

You served without incident until 17 June 1995 when you were formally counseled regarding your failure to maintain sufficient progress toward assigned qualifications, i.e., "submarine requalification, torpedoman of the watch (TMOW), torpedo handling team individual, and 3" launcher operator." You were told you had to qualify as torpedoman of the watch by 23 June 1995 and attain submarine requalification by 30 June 1995. You were warned that failure to take corrective action could result in

submarine disqualification and possible administrative separation.

You received an adverse enlisted performance evaluation for the reporting period of 19 November 1994 to 30 June 1995. Adverse marks of 2.6 were assigned in the categories of rate knowledge and military bearing and the command's recommendation for your advancement was withdrawn.

On 18 July 1995 you were evaluated by a medical officer due to your inability to stay awake on watch. You reported having no such problems in the past, and the examining doctor noted you had had an extensive work-up which included psychological testing as well as a sleep study, both of which were essentially normal. Further testing was not considered warranted and administrative separation was recommended if the problem persisted.

On 24 July 1995 you were notified that administrative separation was being recommended due to unsatisfactory performance as evidenced by your failure to requalify for torpedoman of the watch on board the PENNSYLVANIA. It was noted that you were medically evaluated for a possible sleep disorder as a result of your falling asleep while on watch at sea, and that a medical officer found no basis for further testing and opined that your problems were probably due to lack of motivation or inattention. You were advised of your procedural rights, consulted with legal counsel, and submitted a statement requesting an honorable discharge. You waived the right to have your case reviewed by the general court-martial convening authority. Thereafter, the discharge authority directed separation and you were honorably discharged on 2 October 1995 and assigned an RE-4 reenlistment code.

In its review of your application, the Board conducted a careful search of your service record for any mitigating factors which might warrant changing the reason for discharge or your assigned reenlistment code. However, no justification for such a change could be found. The Board noted your contention that your unsatisfactory performance was due to an unspecified medical problem. However, you provide no evidence of a medical condition which would render you incapable of satisfactory performance. The Board noted that you served satisfactorily for more than two years on another submarine and apparently were able maintain your qualifications. The Board believe that USS PENNSYLVANIA's expectations that you should have easily re-qualified were appropriate and reasonable. Regulations require that the narrative reason for discharge be shown on the DD Form 214. The fact that it is somewhat stigmatizing does not provide a valid basis for changing it on the DD Form 214. Regulations also require the assignment of an RE-4 reenlistment code to individuals who are discharged by reason of unsatisfactory

performance. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director